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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

Arizona Corporation Commission

DOCKETED

DEC 19 2008

DOCKETED BY

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DOCKET NO. T-20590A-08-0175

IN THE MATTER OF THE APPLICATION OF  
PEERLESS NETWORK OF ARIZONA, LLC, FOR  
APPROVAL OF A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
RESOLD LOCAL EXCHANGE  
TELECOMMUNICATIONS SERVICES, RESOLD  
LONG DISTANCE TELECOMMUNICATIONS  
SERVICES, FACILITIES-BASED LOCAL  
EXCHANGE TELECOMMUNICATIONS  
SERVICES, AND FACILITIES-BASED LONG  
DISTANCE TELECOMMUNICATIONS  
SERVICES.

PROCEDURAL ORDER

**BY THE COMMISSION:**

On March 25, 2008, Peerless Networks of Arizona, LLC ("Peerless" or "Company"), submitted to the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold local exchange telecommunications services, resold long distance telecommunications services, facilities-based local exchange telecommunications services, and facilities-based long distance telecommunications services in Arizona ("Application").

On September 3, 2008, the Commission's Utilities Division ("Staff") filed its Letter of Insufficiency and First Set of Data Requests ("Data Requests") in this matter.

On July 21, 2008, Peerless filed its response to the Data Requests.

On September 3, 2008, Staff issued a Letter of Insufficiency and Second Set of Data Requests ("Second Data Requests") in this matter.

On September 15, 2008, Peerless filed its response to the Second Data Requests.

On December 12, 2008, Staff filed its Staff Report recommending approval of the Application.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern

1 the preparation and conduct of this proceeding.

2 IT IS THEREFORE ORDERED that the **hearing** on the above application shall commence  
3 on **March 5, 2009, at 10:00 a.m.** or as soon thereafter as is practical, at the Commission's offices,  
4 Hearing Room 100, 1200 West Washington Street, Phoenix, Arizona 85007.

5 IT IS FURTHER ORDERED that Company shall publish notice of the hearing as stated  
6 below, in a newspaper(s) of general circulation in every county in Arizona in which Company desires  
7 to provide service **as soon as possible, but no later than February 5, 2009**, and shall file Affidavits  
8 of Publication with the Commission no later than **February 19, 2009**.

9 **IN THE MATTER OF THE APPLICATION OF PEERLESS NETWORKS OF**  
10 **ARIZONA, LLC, FOR APPROVAL OF A CERTIFICATE OF**  
11 **CONVENIENCE AND NECESSITY TO PROVIDE TO PROVIDE RESOLD**  
12 **LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES, RESOLD**  
13 **LONG DISTANCE TELECOMMUNICATIONS SERVICES, FACILITIES-**  
14 **BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES, AND**  
15 **FACILITIES-BASED LONG DISTANCE TELECOMMUNICATIONS**  
16 **SERVICES.**

17 **Docket No. T-20590A-08-0175**

18 On March 25, 2008, Peerless Networks of Arizona, LLC ("Company") submitted to  
19 the Arizona Corporation Commission ("Commission") an application for a Certificate  
20 of Convenience and Necessity ("Certificate") to provide resold local exchange  
21 telecommunications services, resold long distance telecommunications services,  
22 facilities-based long distance telecommunications services, and facilities-based local  
23 exchange telecommunications services. The Commission's Utilities Division ("Staff")  
24 has recommended approval of the Company's application. The Commission is not  
25 bound by the proposals made by the Company, Staff, or any intervenors, and the  
26 Company will be required to provide this service under the rates and charges and  
27 terms and conditions established by the Commission. Copies of the application, report  
28 of Staff, and any written exceptions to the report of Staff filed by the Company will be  
available at the Company's offices [insert address] and on the internet via the  
Commission website (www.azcc.gov) using the e-docket function.

21 The Commission will hold a hearing on this matter beginning **March 5, 2009, at**  
22 **10:00 a.m.**, at the Commission's offices, Hearing Room 100, 1200 West Washington,  
23 Phoenix, Arizona. Public comments will be taken on the first day of the hearing.  
24 Written public comments may be submitted via email (visit  
25 <http://www.azcc.gov/utility/cons/index.htm> for instructions), or by mailing a letter  
26 referencing Docket Number T-20567A-07-0662 to: Arizona Corporation Commission,  
27 Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007.

26 The law provides for an open public hearing at which, under appropriate  
27 circumstances, interested parties may intervene. Intervention shall be permitted to any  
28 person entitled by law to intervene and having a direct and substantial interest in the  
matter. Persons desiring to intervene must file a written motion to intervene with the  
Commission up to the day of the hearing. The motion to intervene must be sent to the  
Company or its counsel and to all parties of record, and must contain the following:

- 1        1.     The name, address, and telephone number of the proposed intervenor  
2             and of any party upon whom service of documents is to be made if  
             different from the intervenor;
- 3        2.     A short statement of the proposed intervenor's interest in the  
4             proceeding (e.g., a customer of the Company, a shareholder of the  
             Company, etc.); and
- 5        3.     A statement certifying that a copy of the motion to intervene has been  
6             mailed to the Company or its counsel and to all parties of record in the  
             case.

7        The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except  
8        that all motions to intervene must be filed on or before **February 12, 2009**. If  
9        representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme  
10       Court, intervention will be conditioned upon the intervenor obtaining counsel to  
11       represent the intervenor. For information about requesting intervention, visit the  
         Arizona Corporation Commission's webpage at  
         <http://www.azcc.gov/utility/forms/index.htm>. The granting of intervention, among  
         other things, entitles a party to present sworn evidence at hearing and to cross-examine  
         other witnesses.

12       If you have any questions about this application, you may contact the Company at  
13       **[insert telephone number]**. If you wish to file written comments on the application  
14       or want further information on intervention you may contact the Consumer Services  
         Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007,  
         or call 1-800-222-7000.

15       The Commission does not discriminate on the basis of disability in admission to its  
16       public meetings. Persons with a disability may request a reasonable accommodation  
17       such as a sign language interpreter, as well as request this document in an alternative  
18       format, by contacting the ADA Coordinator, Linda Hogan, at [LHogan@azcc.gov](mailto:LHogan@azcc.gov),  
         voice phone number 602-542-3931. Requests should be made as early as possible to  
         allow time to arrange the accommodation.

19       IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-  
20       105, except that all motions to intervene shall be filed by **February 12, 2009**.

21       IT IS FURTHER ORDERED that any objections to interventions shall be filed by **February**  
22       **23, 2009**.

23       IT IS FURTHER ORDERED that Peerless or any intervenors shall file specific  
24       disagreements/comments, if any, regarding the Staff Report by **February 23, 2009**.

25       IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
26       of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law in Arizona and  
27       before the Commission and admission *pro hac vice*.

28       IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance

with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the Rules of Arizona Supreme Court). Representation before the Commission includes appearance at all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled for discussion, unless counsel has previously been granted permission to withdraw by the Administrative Law Judge or the Commission.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

Dated this 17<sup>th</sup> day of December, 2008.

  
 BELINDA A. MARTIN  
 ADMINISTRATIVE LAW JUDGE


Copies of the foregoing mailed/delivered this 17<sup>th</sup> day of December, 2008 to:

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By:   
 Belinda A. Martin